

Sixth Appellate District

San Jose, California

MONDAY, DECEMBER 15, 2008

H032621 PEOPLE v. LEWIS

Let a writ of mandate issue directing the superior court to vacate its order denying Lewis's request for relief from the requirement that he register as a sex offender under either Penal Code section 290 or 290.006 and to enter a new order relieving Lewis of any sex offender registration requirement. (published) (Premo, J.; We concur: Rushing, P.J., Duffy, J.)
Filed December 15, 2008

H031753 PEOPLE v. PEREZ

By the Court:

Appellant's motion to vacate submission and set new date for oral argument is granted. Oral argument in the above entitled cause will be heard on a date and time to be advised. The cause will be resubmitted at the conclusion of oral argument.
Dated: December 15, 2008 Rushing, P.J.

H032543 BELKIN v. QUINET

The judgment is affirmed. Costs on appeal are awarded to respondent. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed December 15, 2008

H032784 PEOPLE v. ANTHONY P.

The juvenile court's dispositional order is reversed, and the matter is remanded for the limited purpose of permitting the juvenile court to exercise its discretion to select between misdemeanor or felony treatment for the offenses and to make the express declaration required by section 702 and rule 5.795(a). If the juvenile court elects to treat either or both offenses as misdemeanors, it shall recalculate the maximum time of confinement. Otherwise, it shall declare the offenses to be felonies and reinstate its original order. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed December 15, 2008

H032906 PEOPLE v. SCHNEIDER

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed December 15, 2008

Sixth Appellate District

San Jose, California

Monday, December 15, 2008 (continued)

H031894 PEOPLE v. KRALOVETZ

The abstract of judgment is ordered modified to state that the offenses in counts, 1, 2 and 3 occurred in 1997 rather than in 1998. As so modified, the judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed December 15, 2008

H031241 PEOPLE v. BRENTLINGER

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Rushing, P.J., Premo, J.)

Filed December 15, 2008

H031293 CITY OF MILPITAS v. YEN

The judgment is affirmed. Respondent City shall recover its costs on appeal. (See Code Civ. Proc., 1268.720.) (not published) (Rushing P.J.; I concur: Premo, J.; Concurring opinion by Bamattre-Manoukian, J.)

Filed December 15, 2008

TUESDAY, DECEMBER 16, 2008

H032201 ARCADIA DEVELOPMENT COMPANY v. CITY OF MORGAN HILL et al.

The judgment of dismissal is reversed. (published)

(Premo, J.; We concur: Rushing, P.J., Duffy, J.)

Filed December 16, 2008

H033064 PEOPLE v. TORRES

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed December 16, 2008

H033015 PEOPLE v. SILVA

The judgment is affirmed. (not published)

(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed December 16, 2008

H033196 PEOPLE v. BAMBER

The judgment is affirmed. (not published)

(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed December 16, 2008

Sixth Appellate District

San Jose, California

Tuesday, December 16, 2008 (continued)

The following case is submitted this date:

H033110 In re P.F.; D.F.C.S. v. K.M.

H032438 HERTZ CORPORATION v. WCAB et al.

The Board's order of November 16, 2007, is annulled, and the matter is remanded for a redetermination of respondent Aguilar's permanent disability rating consistent with the views expressed in this opinion. (published)

(Bamattre-Manoukian, Acting P.J.; I concur: Mihara, J.;
Concurring opinion by McAdams, J.)

Filed December 16, 2008

H032052 PEOPLE v. LEXINGTON NATIONAL INSURANCE COMPANY

The order denying Surety's motion to vacate the bond forfeiture and to exonerate the bond, and the summary judgment entered forfeiting the bond, are affirmed. (not published)

(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed December 16, 2008

H030465 PEOPLE v. VILLARREAL

The judgment is reversed. The case is remanded for resentencing unless the prosecutor elects to retry the prior serious felony allegations pertaining to defendant's 1982 burglary conviction in Santa Clara County case number 79611. Retrial is limited to that issue. (not published)

(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)

Filed December 16, 2008

WEDNESDAY, DECEMBER 17, 2008

H032406 PEOPLE v. BEECH

The judgment is modified to add 122 days of actual custody credit under Penal Code section 2900.5 and 61 days of good-conduct credit under Penal Code section 4019. The trial court is directed to prepare an amended abstract of judgment to reflect this modification and to forward the same to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. (not published)

(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed December 17, 2008

Sixth Appellate District

San Jose, California

Wednesday, December 17, 2008 (continued)

H032762 PEOPLE v. ROMAYOR

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed December 17, 2008

H031218 PEOPLE v. WARZEK

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed December 17, 2008

H031156 PEOPLE v. SCHWARTZMILLER

By the Court*:

Appellant's petition for rehearing is denied.

Filed: December 17, 2008

*Before Rushing, P.J., Premo, J. and Elia, J.

H031582 EARLS v. AMDAHL

By the Court*:

Appellant's petition for rehearing is denied.

Filed: December 17, 2008

*Before Premo, Acting P.J., Elia, J. and Bamattre-Manoukian, J.

H032473 CAMPBELL, et al. v. STATE DEPARTMENT OF HEALTH CARE SERVICES

The order is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed December 17, 2008

H032591 CAMPBELL, et al. v. STATE DEPARTMENT OF HEALTH CARE SERVICES

The order is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed December 17, 2008

THURSDAY, DECEMBER 18, 2008

H031451 PAIVA v. NICHOLS et al.

By the Court*:

Respondent's petition for rehearing is denied.

Filed: December 18, 2008

*Before Rushing, P.J., McAdams, J. and Duffy, J.

Sixth Appellate District

San Jose, California

Thursday, December 18, 2008 (continued)

H032595 In re CASSANDRA K. et al.; D.F.C.S v. JEFFERY K.

The juvenile court's orders dated January 31, 2008, are affirmed. (not published)

(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)

Filed December 18, 2008

H031525 PEOPLE v. EARLE

By the Court:

On the court's own motion, the submission order of October 21, 2008, is hereby vacated. The court has requested transmittal of the superior court files, CC579054 & CC762479 for review. The cause will be resubmitted upon lodging of those superior court files in this court.

Dated: December 18, 2008 Rushing, P.J.

H032911 PEOPLE v. SUPERIOR COURT (KING)

Let a peremptory writ of mandate issue directing respondent court to vacate its April 29, 2008 order granting defendant King's motion to suppress evidence, and to enter a new order granting the motion as to all contested items with the exception of the "Schneider money clip, identification and credit cards" contained in "Item #3," the Nike shoe box, and the subsequent interviews of T. and David Schneider; the "Indicia related to Shunnee King" contained in "Item #6"; and the "[a]lleged gang" items in "Item # 7," "Item # 9," "Item #10," "Item # 13," and "Item # 17." The temporary stay order is vacated. This opinion is made final as to this court seven days from the date of its filing. (Cal. Rules of Court, rule 8.264(b)(3)). (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed December 18, 2008

H031164 PEOPLE v. CHEEK

The order of commitment is reversed. The matter is remanded and the trial court is directed to enter a new order committing Michael Thomas Cheek for an indeterminate term of commitment.

(not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., Duffy, J.)

Filed December 18, 2008

H031830 PEOPLE v. ABRAMS

The appeal is dismissed as moot. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed December 18, 2008

Sixth Appellate District

San Jose, California

Thursday, December 18, 2008 (continued)

H031995 PEOPLE v. PASCALI

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed December 18, 2008

H032710 PEOPLE v. MORA

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed December 18, 2008

FRIDAY, DECEMBER 19, 2008

H031875 PEOPLE v. FRANCO

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Elia, Acting P.J., Bamattre-Manoukian, J.)
Filed December 19, 2008

H031007 PEOPLE v. SULLIVAN

The order is affirmed. (not published)
(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed December 19, 2008

H032878 LANE v. CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

The trial court's order denying Lane's petition for writ of
mandate is affirmed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara,
J.)
Filed December 19, 2008

H032861 PEOPLE v. PENA

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy,
J.)
Filed December 19, 2008

H031108 SHAW et al. v. COUNTY OF SANTA CRUZ, et al.

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara,
J.)
Filed December 19, 2008

Sixth Appellate District

San Jose, California

Friday, December 19, 2008 (continued)

H033239 BOARD OF PAROLE HEARINGS v. SUPERIOR COURT; PORTEE

Let a peremptory writ of mandate issue commanding the superior court to vacate its order of July 10, 2008, directing the Board of Parole Hearings to "explain what instances of [Portee's] commitment offense would not qualify for invocation of any unsuitability criteria which may be used to deny [Portee] parole," and to reconsider its ruling in accordance with the views expressed in this opinion. The temporary stay order is vacated. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Duffy, J.)

Filed December 19, 2008

H032954 PEOPLE v. ANDERSON

The judgment is ordered modified to reflect that the sentence on count 2, driving with blood-alcohol level of .08 percent, is stayed pursuant to Penal Code section 654. The judgment is also modified to reduce the restitution fine from \$800 to \$400, and the suspended parole revocation fine from \$800 to \$400. As so modified, the judgment is affirmed. The superior court is directed to send a certified copy of the corrected abstract of judgment to the Department of Corrections. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed December 19, 2008

H032193 PEOPLE v. GONZALEZ

The judgment is reversed with regard to defendant's conviction of possession of ammunition by a convicted felon (Pen. Code, § 12316, subd. (b)). The trial court is directed to prepare an amended abstract of judgment to reflect this change and to forward the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. (not published)

(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed December 19, 2008

H032862 PEOPLE v. ANTONIO G.

The judgment is affirmed. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed December 19, 2008

Sixth Appellate District

San Jose, California

Friday, December 19, 2008 (continued)

H029681 PEOPLE v. COSTA

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed December 19, 2008

H032784 PEOPLE v. ANTHONY P.

Filed modification of opinion with no change in the
judgment. (not published)
(Bamattre-Manoukian, Acting P.J., McAdams, J., Duffy, J.)
Filed December 19, 2008

H031726 PEREZ v. GRAJALES

The order dismissing Grajale's Cross-Complaint is affirmed.
The order denying Grajale's motion to confirm the fee arbitration
award and enter judgment thereon is reversed. The matter is
remanded to the trial court with directions to enter an order
granting the motion to confirm the fee arbitration award and to
enter judgment on that award in favor of Grajales. Costs on
appeal are awarded to Grajales. (published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed December 19, 2008

H032574 PEOPLE v. MORALES

By the Court*:

Appellant's petition for rehearing is denied.
Filed: December 19, 2008
*Before Mihara, Acting P.J., McAdams, J. and Duffy, J.

H031812 PEOPLE v. GOINS

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed December 19, 2008